

PL402

**PLANNING AND DEVELOPMENT ACT 2005**

## INSTRUMENT OF DELEGATION

## 2024/02 Powers of Committees

Notice of Delegation to Committees of certain powers and functions of the  
Western Australian Planning Commission.

Under section 16 of the *Planning and Development Act 2005* (the Act) the Western Australian Planning Commission (the WAPC) may, by resolution published in the *Government Gazette*, delegate any function to a member, committee or officer of the WAPC or to a public authority or a member or officer of a public authority.

In accordance with section 16(4) of the Act, a reference in this instrument to a function or a power of the WAPC includes and extends to, without limitation or restriction, any of the powers, privileges, authorities, discretions, duties and responsibilities vested in or conferred upon the WAPC by the Act or any other written law as the case requires.

Resolution under s16 of the Act (delegation)

On 1 May 2024, pursuant to section 16 of the Act, the WAPC RESOLVED—

- A. To delegate its powers and functions as set out in column 2 of the schedule, to the committees specified in column 1 of the schedule, subject to the conditions specified in column 3 and the terms of the Interpretation section.
- B. To revoke its delegation of powers and functions to committees as detailed in the instrument of delegation ‘DEL 2017/01 Powers of committees’ published in the *Government Gazette* on 29 April 2016 (and as amended).
- C. To revoke its delegation of powers and functions to the Swan Valley Statutory Planning Committee, as detailed in instrument of delegation “Powers of Swan Valley Statutory Planning Committee” published in the *Government Gazette* on 3 September 2021 (and as amended).

SAM BOUCHER, Secretary, Western Australian Planning Commission.

**SCHEDULE**

<b>Column 1 (Committee)</b>	<b>Column 2 (Powers and Functions)</b>	<b>Column 3 (Conditions)</b>
<b>1. Executive, Finance and Property Committee</b>	1.1. All powers and functions of the WAPC that may be lawfully delegated under the Act and any other written law.	
<b>2. Statutory Planning Committee</b>	2.1. Power to provide advice and assistance to the Minister in relation to— <ol style="list-style-type: none"> <li>a. preparing, maintaining and administering—               <ol style="list-style-type: none"> <li>i. region planning schemes;</li> <li>ii. interim development orders;</li> <li>iii. improvement plans and improvement schemes.</li> </ol> </li> <li>b. the declaration of planning control areas and administering those areas;</li> </ol>	Excluding where this relates to land subject to the Swan Valley Planning Scheme. Excluding those relating to— <ul style="list-style-type: none"> <li>• preparing a new, or recommending a new, instrument listed in (a) or (b)</li> <li>• non-minor amendments to a region scheme</li> <li>• Region scheme amendments inconsistent with the applicable strategic planning framework.</li> </ul>
	<b>Region planning schemes</b> 2.2. All powers and functions of the WAPC under Part 4 of the Act	Excluding those relating to— <ul style="list-style-type: none"> <li>• preparing a new region scheme;</li> <li>• recommending new region scheme to the Minister</li> <li>• non-minor amendments to a region scheme</li> </ul>

Column 1 (Committee)	Column 2 (Powers and Functions)	Column 3 (Conditions)
		<ul style="list-style-type: none"> <li>• initiating an amendment that conflicts with the approved regional or subregional planning strategy or framework.</li> <li>• revoke an existing region scheme</li> </ul>
	<p><b>Local planning schemes</b> 2.3. All powers and functions of the WAPC under Part 5 of the Act</p>	<p>Excludes those—</p> <ul style="list-style-type: none"> <li>• relating to land subject to the Swan Valley Planning Scheme</li> </ul>
	<p><b>Interim development orders</b> 2.4. All powers and functions of the WAPC under Part 6 of the Act</p>	<p>Excludes those—</p> <ul style="list-style-type: none"> <li>• Under s98 (making a Regional Interim Development Order)</li> <li>• relating to land subject to the Swan Valley Planning Scheme</li> </ul>
	<p><b>Planning control areas</b> 2.5. All powers and functions of the WAPC under Part 7 of the Act</p>	<p>Excludes those—</p> <ul style="list-style-type: none"> <li>• under s112 (to declare a planning control area)</li> <li>• relating to land subject to the Swan Valley Planning Scheme</li> </ul>
	<p><b>Improvement plans and schemes</b> 2.6. All powers and functions of the WAPC under Part 8 of the Act.</p>	<p>Excludes those—</p> <ul style="list-style-type: none"> <li>• Under s119 in relation to a new improvement plan</li> <li>• relating to land subject to the Swan Valley Planning Scheme</li> </ul>
	<p><b>Subdivision and development control</b> 2.7. All powers and functions of the WAPC under Part 10 of the Act</p>	<p>Excludes those—</p> <ul style="list-style-type: none"> <li>• under s169 (in relation to minimum standards of construction for roads and waterways)</li> <li>• relating to land subject to the Swan Valley Planning Scheme</li> <li>• for the use and development of land— <ul style="list-style-type: none"> <li>o critical to major State priority projects such as significant renewable energy facilities, the Future of Fremantle;</li> <li>o classified as ‘State significant’ under the Governments Lead Agency Framework.</li> </ul> </li> </ul>

Column 1 (Committee)	Column 2 (Powers and Functions)	Column 3 (Conditions)
	<p><b>Significant development</b> 2.8. All powers and functions of the WAPC under Part 11B of the Act</p>	<p>Excludes those—</p> <ul style="list-style-type: none"> <li>• relating to land subject to the Swan Valley Planning Scheme</li> <li>• that are mandatory significant developments for the purposes of section 171L(2) of the <i>Planning and Development Act 2005</i></li> <li>• subject to a section 171M Premier Authorisation under the <i>Planning and Development Act 2005</i>;</li> <li>• critical to major State priority projects such as significant renewable energy facilities, the Future of Fremantle;</li> <li>• classified as ‘State significant’ under the Governments Lead Agency Framework,</li> </ul>
	<p><b>Enforcement and legal proceedings</b> 2.9. All powers and functions of the WAPC under sections 214—216 of the Act 2.10. Power to defend, respond, appeal and otherwise deal with legal proceedings.</p>	<p>Powers to be exercised having due regard to relevant, published WAPC policy. Excludes those—</p> <ul style="list-style-type: none"> <li>• relating to land subject to the Swan Valley Planning Scheme</li> </ul>
	<p><b>Applications for review</b> 2.11. Power to advise the Minister for Planning on any appeal or matter arising out of Part 14 of the Act</p>	<p>Excludes those—</p> <ul style="list-style-type: none"> <li>• relating to land subject to the Swan Valley Planning Scheme</li> </ul>
	<p><b>Mapping provisions</b> 2.12. All powers and functions of the WAPC under sections 267B and 267C of the Act in relation to electronic maps.</p>	
	<p><b>Powers under other legislation or regulations</b> 2.13. All powers and functions of the WAPC under the <i>Strata Titles Act 1986</i> 2.14. Under the <i>Environmental Protection Act 1986</i>— a. Power to determine whether or not a proposal is likely to have a significant effect on the environment pursuant to s38(1) and to refer such proposal to the Environmental Protection Authority. 2.15. All powers and functions under sections 52, 59, and 85 of the <i>Land Administration Act 1997</i>. 2.16. Power to endorse diagrams, plans of survey and deposited plans involving the acquisition and resumption of land created pursuant to Part 11 of the Act and the <i>Land Administration Act 1997</i>;</p>	

Column 1 (Committee)	Column 2 (Powers and Functions)	Column 3 (Conditions)
	<p>2.17. Power to provide advice or comments in relation to development applications, information and documents referred to the WAPC under sections 73 and 74 of the <i>Swan and Canning Rivers Management Act 2006</i></p> <p>2.18. All powers and functions under section 40 of the <i>Liquor Control Act 1988</i>;</p> <p>2.19. All powers and functions of the WAPC under the—</p> <ol style="list-style-type: none"> <li>a. <i>Perry Lakes Redevelopment Act 2005</i>;</li> <li>b. <i>Community Titles Act 2018</i></li> </ol> <p>2.20. Powers and functions under the <i>Metropolitan Redevelopment Authority Act 2011</i> to—</p> <ol style="list-style-type: none"> <li>a. Provide advice or comment in relation to proposals under section 20;</li> <li>b. Make a submission in relation to a draft redevelopment scheme under section 39;</li> <li>c. Make a recommendation to the Minister in relation to draft redevelopment scheme under section 46.</li> </ol> <p>2.21. All functions and powers of the WAPC under—</p> <ol style="list-style-type: none"> <li>a. <i>The Planning and Development (Local Planning Schemes) Regulations 2015</i> (excluding those establishing manner and/or form requirements);</li> <li>b. <i>The Planning and Development Regulations 2009</i>;</li> <li>c. <i>Strata Titles (General) Regulations 2019</i>;</li> <li>d. <i>The Planning and Development (Significant Development) Regulations 2024</i>.</li> </ol> <p><b>Other powers and functions</b></p> <p>2.22. Power to provide comments or advice on behalf of the WAPC to a local government or a redevelopment authority where a provision of a local planning scheme or a redevelopment scheme requires comments from the WAPC.</p> <p>2.23. Power to execute and accept the benefit of easements in gross, covenants in gross, records on title and other instruments for dealings in land for subdivisions, strata subdivisions and developments in accordance with any applicable policy and legislation.</p>	
<p><b>3. Swan Valley Statutory Planning Committee</b></p>	<p><b>Mandatory delegations as per s34 (3) (a)—(c) <i>Swan Valley Planning Act 2020</i></b></p> <p>3.1. Power to perform all functions and exercise all powers of the WAPC under Part 2 of the <i>Swan Valley Planning Act 2020</i></p> <p>3.2. Power to perform all functions and exercise all powers the WAPC has under the <i>Planning and Development Act 2005</i> as the responsible authority for the Swan Valley Planning Scheme.</p>	<p>Provided the function or power relates to land and development in the Swan Valley, as delineated by s4 of the <i>Swan Valley Planning Act 2020</i></p>

Column 1 (Committee)	Column 2 (Powers and Functions)	Column 3 (Conditions)
	3.3. Power to perform all functions and exercise all powers of the WAPC under the <i>Swan and Canning Rivers Management Act 2006</i> Parts 4 and 5.	
	<b>Mandatory delegations as per s34 (3) (d) <i>Swan Valley Planning Act 2020</i></b>	
	<b>Subdivision and development control</b> 3.4. All powers and functions of the WAPC under Part 10 of the Act.	Provided the function or power relates to land and development in the Swan Valley, as delineated by s4 of the <i>Swan Valley Planning Act 2020</i> Excludes those— <ul style="list-style-type: none"> <li>• under s169 (in relation to minimum standards of construction for roads and waterways)</li> </ul>
	<b>Enforcement and legal proceedings</b> 3.5. All powers and functions of the WAPC under sections 214—216 of the Act 3.6. Power to defend, respond, appeal and otherwise deal with legal proceedings.	Powers to be exercised having due regard to relevant, published WAPC policy. Provided the function or power relates to land and development in the Swan Valley, as delineated by s4 of the <i>Swan Valley Planning Act 2020</i>
	<b>Applications for review</b> 3.7. Power to advise the Minister for Planning on any appeal or matter arising out of Part 14 of the Act.	Provided the function or power relates to land and development in the Swan Valley, as delineated by s4 of the <i>Swan Valley Planning Act 2020</i>
	<b>Mapping provisions</b> 3.8. All powers and functions of the WAPC under sections 267B and 267C of the Act in relation to electronic maps.	
	<b>Powers under other legislation or regulations</b> 3.9. All powers and functions of the WAPC under the <i>Strata Titles Act 1986</i> 3.10. Under the <i>Environmental Protection Act 1986</i> — <ol style="list-style-type: none"> <li>a. Power to determine whether or not a proposal is likely to have a significant effect on the environment pursuant to s38(1) and to refer such proposal to the Environmental Protection Authority.</li> </ol> 3.11. All powers and functions under sections 52, 59, and 85 of the <i>Land Administration Act 1997</i> . 3.12. Power to endorse diagrams, plans of survey and deposited plans involving the acquisition and resumption of land created pursuant to Part 11 of the Act and the <i>Land Administration Act 1997</i> ; 3.13. Power to provide advice or comments in relation to development applications, information and documents referred to the WAPC under sections 73 and 74 of the <i>Swan and Canning Rivers Management Act 2006</i> 3.14. All powers and functions under section 40 of the <i>Liquor Control Act 1988</i> ; 3.15. All powers and functions of the WAPC under the <i>Community Titles Act 2018</i>	

Column 1 (Committee)	Column 2 (Powers and Functions)	Column 3 (Conditions)
	3.16. All functions and powers of the WAPC under— <ol style="list-style-type: none"> <li>a. The <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> (excluding those establishing manner and/or form requirements);</li> <li>b. The <i>Planning and Development Regulations 2009</i>;</li> <li>c. <i>Strata Titles (General) Regulations 2019</i>;</li> <li>d. The <i>Planning and Development (Significant Development) Regulations 2024</i>.</li> </ol>	
	<b>Other powers and functions</b> 3.17. Power to execute and accept the benefit of easements in gross, covenants in gross, records on title and other instruments for dealings in land for subdivisions, strata subdivisions and developments in accordance with any applicable policy and legislation.	

#### Interpretation

1. A reference to an Act includes a reference to any subsidiary legislation made under that Act (s46 *Interpretation Act 1984*).
  - 1.1. In this instrument, where a power or function under a provision of an Act are delegated, power to exercise any functions or powers under the relevant regulations are automatically included.
2. The WAPC reserves the power to **establish** manner and form requirements for matters under the *Planning and Development (Local Planning Schemes) Regulations 2015*. If a matter before a delegate departs from such requirements, in a minor manner, the delegate may determine whether to accept or reject such departures.